



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** August 19, 2008  
**TO:** Mayor and Councilmembers  
**FROM:** Administration Division, Finance Department  
**SUBJECT:** Cottage Hospital Debt Issuance

**RECOMMENDATION:** That Council:

- A. Hold a Public Hearing at the request of the California Statewide Communities Development Authority (CSCDA) on the issuance of debt by CSCDA on behalf of Cottage Hospital; and
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Approving a Tax-Exempt Bond Financing to be Issued by the California Statewide Communities Development Authority to Benefit Santa Barbara Cottage Hospital and Affiliates.

**DISCUSSION:**

The City has received a request from the California Statewide Communities Development Authority (CSCDA) to conduct a public hearing as required by the Internal Revenue Code in order to issue up to \$285 million of tax-exempt bonds on behalf of Santa Barbara Cottage Hospital and Affiliates. Cottage Hospital will use the bond proceeds to finance or refinance the acquisition, construction, improvement, equipping, renovation, rehabilitation, and remodeling of the health facilities owned or operated by Santa Barbara Cottage Hospital or its affiliates located in the City.

CSCDA is a joint exercise of powers authority formed to assist local governments and non-profits with their financing needs. CSCDA is sponsored by both the League of California Cities and the California State Association of Counties. The City is a member of the CSCDA.

Under federal and state law, the governing body of any local entity within which tax-exempt bond proceeds are to be spent must (i) conduct a public hearing to accept comments on the project and the debt issuance, and (ii) approve the issuance of the debt. Because proceeds of this debt issuance will be spent in Santa Barbara, the City Council must hold a public hearing and adopt a resolution approving the debt issuance. It is important to understand that the City is in no way associated with the debt issuance and that holding the public hearing and adopting the resolution in no way makes the City a party to the debt issuance.

As required by federal law, notice of the public hearing was published at least fourteen days prior to the date of the public hearing.

In summary, in order for CSCDA and Cottage Hospital to issue tax-exempt debt for improvements to Cottage Hospital's facilities here in Santa Barbara, the City is required to hold a public hearing and adopt a resolution approving the debt issuance. Staff recommends that Council do both.

**ATTACHMENT:** Letter from Orrick, Herrington & Sutcliffe, LLP, dated July 28, 2008, regarding the proposed California Statewide Communities Development Authority financing for Cottage Hospital.

**SUBMITTED BY:** Robert D. Peirson, Finance Director

**APPROVED BY:** City Administrator's Office

July 28, 2008

*Via email (rpeirson@santabarbaraca.gov)*

Mr. Robert Peirson  
Finance Director  
City of Santa Barbara  
P.O. Box 1990  
Santa Barbara, CA 93101

Re: California Statewide Communities Development Authority Variable Rate Revenue  
Bonds (Cottage Health System Obligated Group), Series 2008

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Dear Mr. Peirson:

Pursuant to the request of James Hamill, Program Manager for California Communities, I am sending you this letter in connection with the public hearing to be conducted, and resolution to be considered, by the City Council of the City of Santa Barbara (the "City") for the proposed financing (the "Financing") of certain health care facilities for Santa Barbara Cottage Hospital (the "Borrower") and certain of its affiliates, to be accomplished through the issuance of bonds by the California Statewide Communities Development Authority ("CSCDA"). Set forth below is a brief summary of the basis for CSCDA's authority to accomplish the proposed Financing, the limited nature of the liability imposed on, and the protections afforded to, the City, as well as the actions required to be undertaken by a member (i.e., the "Program Participant") of CSCDA in order for such Financing to proceed. **This Financing is structured so that neither CSCDA nor the relevant Program Participant (e.g., the City) has pecuniary liability.**

Pursuant to the provisions of the Joint Powers Act, commencing with Section 6500 of the California Government Code (the "Act"), a number of California cities, counties and special districts have entered into a joint exercise of powers agreement (the "Agreement") pursuant to which CSCDA was organized. The City is currently a Program Participant and has adopted the required "joining resolution" and a copy of the executed Agreement should be in your City Clerk's files. There are no dues or other membership requirements on the part of the City (other than to adopt the "joining resolution" and execute the Agreement). Currently, over 350 cities, counties, districts or local agencies are Program Participants of CSCDA.

CSCDA is authorized by its Agreement to issue bonds, notes, other evidences of indebtedness or certificates of participation in leases or other agreements in order to promote economic development, including the provision and maintenance of multifamily housing or for the benefit of organizations described under Section 501(c)(3) of the Internal Revenue Code of 1986. However, under the terms of the Agreement, CSCDA may not approve the Financing unless the governing body of the Program Participant in whose jurisdiction the project is located (or to be located) approves the project and the Financing.

Furthermore, Section 147(f) of the Internal Revenue Code of 1986 requires that the proposed Financing be approved by a governmental unit having jurisdiction over the area in which the facility to be financed is located. The Financing will be treated as having been approved by a governmental unit if "the applicable elected representative" of such governmental

unit approves such issue after a public hearing following reasonable public notice of such hearing.

The foregoing will be deemed satisfied if the governing body of the Program Participant (1) holds a public hearing (upon at least 14 days prior notice published in a newspaper of general circulation within its jurisdiction), and (2) adopts the TEFRA Resolution approving the financing to be undertaken through CSCDA. **It is customary that Bond Counsel, together with CSCDA staff, draft the required resolution for the City Council to consider, assist with publication of the required notice of public hearing, and, upon your request, have a representative present at the public hearing to answer questions posed by the public or City Council relating to the Financing.**

Thereafter, pursuant to applicable state law, the bonds are issued as limited obligations of CSCDA, not of the City, payable solely out of the revenues and receipts derived from the loan made by CSCDA to the Borrower with the proceeds of the bonds.

Specifically, Section 8 of the Agreement provides that “[t]he Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Program Participant... or pledge of the faith and credit of the Program Participants...the Program Participants (e.g., the City)... shall [not] be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto...”. The Agreement also expressly provides that CSCDA is a public entity separate and apart from the Program Participants, and “[i]ts debts, liabilities and obligations do not constitute debts, liabilities or obligations of any party to [the] Agreement.”

Accordingly, the Bonds proposed to be issued for the Financing will be indebtedness of CSCDA, and the City will not be asked to approve or execute any of the documents relating to the Financing. Moreover, the disclosure prepared for the Financing which will be used to market the Bonds will not have any information regarding the City and will not include the City’s name (other than possibly with respect to where the project is located). The documents will be made available for your review upon request.

In order to further limit CSCDA’s financial liability and that of its Program Participants, CSCDA requires that in connection with the loan of bond proceeds to the Borrower, the Borrower must indemnify CSCDA and the applicable Program Participant (the City) from all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character relating to the Bonds and project. In this case, such indemnification will include the City. We call attention, however, to the fact that such obligation may be subject to bankruptcy, insolvency, reorganization, arrangement and other laws relating to or affecting creditors’ rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to possible limitations on legal remedies.

I hope that this letter assists you in understanding the role that the City will play in the issuance of revenue bonds through CSCDA for the Financing. **Attached for your reference are drafts of (1) the TEFRA Resolution, (2) Notice of Public Hearing and (3) a suggested script to be read at the public hearing.**

If you have any further questions, please do not hesitate to contact me at (916) 329-7985.

Melissa Warr, a Project Manager in our office, will be contacting you in the next few days to confirm the date, time and place of the public hearing (we understand from James Hamill that it is currently scheduled to be held on August 19, 2008). Additionally, we are prepared to handle the publication of the TEFRA notice, but defer to you and your staff, or your City Clerk, if it is your custom or preference to do the publication directly. Please contact me should any of this need modification or if you have any questions or comments.

Very truly yours,

/s/ **Diane**

Diane S. Potter , Esq.

cc: James F. Hamill, Program Manager, California Communities, via email  
Mike LaPierre, Program Manager, California Communities, via email